

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CURTIS LEE HENDERSON SR.,)	No. C 07-2838 SBA (PR)
)	
Plaintiff,)	<u>ORDER GRANTING PLAINTIFF'S</u>
)	<u>MOTION FOR LEAVE TO FILE FIRST</u>
v.)	<u>AMENDED COMPLAINT</u>
)	
)	(Docket no. 6)
CALIFORNIA DEPARTMENT OF)	
CORRECTION, et al.,)	
)	
Defendants.)	

In this pro se civil rights action, Plaintiff has filed a motion for leave to file a first amended complaint (docket no. 6).

A plaintiff may amend his complaint once as a matter of course at any time before a responsive pleading is served. See Fed. R. Civ. P. 15(a). Where a plaintiff seeks to amend after a responsive pleading has already been served, however, the decision whether to grant leave to amend is committed to the sound discretion of the trial court. Waits v. Weller, 653 F.2d 1288, 1290 (9th Cir. 1981). Federal Rule of Civil Procedure 15(a) is to be applied liberally in favor of amendments and, in general, leave shall be freely given when justice so requires. Janicki Logging Co. v. Mateer, 42 F.3d 561, 566 (9th Cir. 1994).

The Court notes that the defendants in this action have not been served at this time. Plaintiff may as a matter of course amend his complaint because a responsive pleading has not yet been served. See Fed. R. Civ. P. 15(a).

Accordingly, Plaintiff's motion for leave to file a first amended complaint (docket no. 6) is GRANTED.

The Clerk of the Court is directed to file the document attached to Plaintiff's motion, which is labeled "First Amended Complaint Under the Civil Rights Act, 42 U.S.C. §§ 1983," and docket the aforementioned document as Plaintiff's "First Amended Complaint." The Clerk of Court is further

1 directed to mark the First Amended Complaint as filed on October 9, 2007, the date it was received
2 by the Court. The Court will review Plaintiff's First Amended Complaint in a separate written Order.

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4 This Order terminates Docket no. 6.

5 IT IS SO ORDERED.

6 DATED: 11/5/07

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8 SAUNDRA BROWN ARMSTRONG
9 United States District Judge
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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CURTIS LEE HENDERSON SR,

Case Number: CV07-02838 SBA

Plaintiff,

CERTIFICATE OF SERVICE

v.

CALIFORNIA DEPARTMENT OF
CORRECTION et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 6, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Curtis Lee Henderson H-43488
Corcoran State Prison
P.O. Box 3481
Corcoran, CA 93212

Dated: November 6, 2007

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk